



Second Meeting
2005 Interim
September 21 & 22, 2005

LCR 1 & 2
State Capitol
Pierre, South Dakota

The second meeting of the South Dakota Task Force to Study Abortion was called to order by Chair Dr. Marty Allison at 8:05 a.m. (CT), September 21, 2005, in LCR 1 and 2 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senator Stanford Adelstein, Dr. Marty Allison (Chair), Dr. Maria Bell (Vice Chair), Mr. Travis Benson, Senator Jay Duenwald, Senator Brock Greenfield, Ms. Linda Holcomb, Representative Roger Hunt, Representative Elizabeth Kraus, Ms. Kate Looby, Representative Kathy Miles, Dr. John Stransky, Dr. Allen Unruh, and Dr. David Wachs. Senator Julie Bartling was excused on September 21 but was present on September 22. Mr. David Day and Senator Theresa Two Bulls were excused.

Staff members present included Reuben D. Bezpaletz, Chief of Research and Legal Services; Jacquelyn Storm, Principal Legislative Attorney; Annie Mehlhaff, Principal Fiscal Analyst; and Teri Retrum, Senior Legislative Secretary.

(NOTE: For sake of continuity, the following minutes are not necessarily in chronological order. Also, all reference documents are on file with the Master Minutes.)

Wednesday, September 21, 2005

Opening Remarks

Chair Dr. Marty Allison reminded everyone that the formation of the task force was set out in HB 1233 in the 2005 Legislative Session to be an information and data collecting group on both sides of the abortion issue. Dr. Allison commented that she realizes some task force members might be disappointed that some of their recommendations were not selected to present at this meeting; however, she stated that the staff and subcommittee appointed to invite recommended expert witnesses from across the nation worked hard to develop today's agenda.

DR. STRANSKY MOVED, SECONDED BY REPRESENTATIVE HUNT, THAT THE TASK FORCE VIEW A VIDEO ON AN ACTUAL ABORTION TECHNIQUE MADE BY AMERICAN MILITARY PERSONNEL OF A EUROPEAN ABORTION.

Senator Stanford Adelstein noted that viewing videos on medical procedures are not on today's agenda and said that the motion is out of order.

Chair Allison said that discussion of whether videos should be shown at future meetings is on tomorrow's agenda.

Senator Brock Greenfield said that this is the time to make any corrections or additions or adjustments to the agenda, so the motion is in order.

Representative Hunt said that the task force's assignment is to study the practice of abortion so viewing this abortion procedure would be within the purview of the task force's study. Whether the video is shown today or tomorrow, Representative Hunt said that the motion is relevant.

Ms. Kate Looby said that if the task force allows for the showing of one video, then it should open the forum to a variety of videos.

SENATOR ADELSTEIN MADE A SUBSTITUTE MOTION, SECONDED BY MS. HOLCOMB, THAT THE TASK FORCE DISCUSS SHOWING OF VIDEOS FOR THE NEXT MEETING, AS PROVIDED IN TODAY'S AGENDA. The motion failed on a voice vote with 5 voting AYE, 9 voting NAY, and 3 EXCUSED. Those voting AYE: Adelstein, Allison, Bell, Holcomb, and Looby. Those voting NAY: Benson, Duenwald, Greenfield, Hunt, Kraus, Miles, Stransky, Unruh, and Wachs. Those EXCUSED: Bartling, Day, and Two Bulls.

SENATOR DUENWALD MADE A SUBSTITUTE MOTION, SECONDED BY DR. UNRUH, THAT THE TASK FORCE VIEW THE VIDEO ON AN ACTUAL ABORTION TECHNIQUE MADE BY AMERICAN MILITARY PERSONNEL OF A EUROPEAN ABORTION ON THURSDAY, SEPTEMBER 22, 2005, AT 1:40 P.M. BEFORE CONTINUING WITH THE AFTERNOON'S PORTION OF THE AGENDA. The motion prevailed on a voice vote with 9 voting AYE, 5 voting NAY, and 3 EXCUSED. Those voting AYE: Benson, Duenwald, Greenfield, Hunt, Kraus, Miles, Stransky, Unruh, and Wachs. Those voting NAY: Adelstein, Allison, Bell, Holcomb, and Looby. Those EXCUSED: Bartling, Day, and Two Bulls.

Presentations

NOTE: Task force members were given time for questioning after each of the presentations on each subject area.

Subject Area I—The historical development of abortion as a medical procedure since its legalization under *Roe v. Wade* and the resultant societal, economic, and ethical impacts (references to comparable experiences of foreign countries which have either expanded or restricted abortion access may also be deemed relevant).

Dr. John C. Willke, MD, Life Issues Institute, Cincinnati, Ohio, presented testimony on Subject Area I. Dr. Willke distributed copies of a book, Abortion Questions and Answers, written by him and his wife, Barbara Willke (**Document #1**) and a packet of informational materials on abortion (**Document #2**). Dr. Willke discussed a history of abortion from ancient times to current practices.

Dr. Stanley Henshaw, PhD, Senior Fellow, The Alan Guttmacher Institute, distributed copies of his prepared remarks (**Document #3**) and his PowerPoint presentation, *Societal, Economic, and Ethical Impacts of Legal Abortion* (**Document #4**). In his remarks, Dr. Henshaw discussed abortion before *Roe v. Wade* and the background of societal, economic, and ethical impacts of legal abortion.

Dr. Philip D. Darney, MD, MSc. Professor and Chief Obstetrics, Gynecology and Reproductive Sciences, San Francisco General Hospital, spoke via teleconference about abortion procedures in the United States and other areas of the world.

The task force recessed at 11:40 a.m. and reconvened at 12:42 p.m.

Presentations (Continued)

Subject Area II—The review and exposition of the body of technological and medical knowledge that has accumulated since 1973 concerning the development and behavior of the unborn child as well as the capacity of the unborn child to experience physical pain.

Dr. Mark Rosen, Obstetrician Anesthesiologist, San Francisco General Hospital, spoke via teleconference and gave a synopsis of fetal development concerning pain and the capacity of the unborn to feel pain.

Dr. Byron C. Calhoun, President of the American Association of Pro-Life Obstetricians, focused his remarks on care of the mother and the fetus together and gave a scientific perspective on the issue of fetal pain.

The task force recessed at 2:50 p.m. and reconvened at 3:07 p.m.

Subject Area III—The review and exposition of the body of medical, psychological, and sociological knowledge that has accumulated since 1973 concerning the physical and mental health of women who have undergone abortions and their subsequent life, health, and socioeconomic experiences.

Dr. Priscilla Coleman, PhD, Associate Professor of Human Development and Family Studies, Bowling Green State University, distributed copies of an outline of her remarks (**Document #5**) and copies of a chart showing Psychology of Abortion Studies Published Since 2002 and articles that have been in the Press (**Document #6**). Dr. Coleman said that there has been an increase in the amount of scholarly papers and research directed toward the psychology surrounding abortion over the last decade.

Dr. Henshaw presented information concerning the psychology and medical issues of abortion.

Dr. Ann Davis, Columbia University, discussed physical effects of abortion on future pregnancies and the future reproductive health of women who have had an abortion.

The task force recessed at 5:40 p.m. and reconvened at 8:10 a.m. on Thursday, September 22, 2005.

Thursday, September 22, 2005

Presentations (Continued)

Subject Area IV—The nature of the biological and psychological relationship between the pregnant woman and the unborn child.

Dr. Martha Shuping, MD, Psychiatrist, spoke via teleconference about maternal-fetal bonding. Dr. Shuping also read from the "Report of Anne C. Speckhard, PhD, Regarding: *Karlin Et Al v. Foust Et Al* August 12, 1996" (**Document #7**).

On behalf of Dr. Shuping, written testimony from **Dr. David C. Reardon**, PhD, Elliott Institute, on psychological matters related to abortion and the affects on the mother (**Document #8**).

Also distributed: Impersonal Processes and Post-Abortion Relationship Difficulties: A Review and Consolidation of Relevant Literature by Dr. Priscilla K. Coleman, PhD (**Document #9**).

Dr. Marie Harvey, spoke via teleconference on research findings regarding mother-fetal bonding.

The task force recessed at 10:20 a.m. and reconvened at 10:30 a.m.

Subject Area V—An Analyses from both the legalistic perspective and from the psychological perspective of the degree to which the decision to undergo an abortion is actually voluntary and the degree to which such abortion constitutes an appropriate legal waiver or termination of the relationship between the woman and the unborn child.

Dr. Vincent Rue, PhD, Institute for Pregnancy Loss, Florida, reviewed his PowerPoint presentation. Dr. Rue distributed copies of "Induced Abortion and Traumatic Stress: A Preliminary Comparison of American and Russian Women" (**Document #10**). He discussed informed consent.

Ms. Lynn M. Paltrow, Executive Director, National Advocates for Pregnant Women, spoke via teleconference on underlying factors surrounding pregnancy and abortion and the issue of informed consent.

The task force recessed at 12:50 p.m. and reconvened at 1:40 p.m.

The task force viewed a video on an actual abortion. Footage is real and graphic—credits to: Center for Bio-Ethical Reform. The film was shown on a Laptop DVD and displayed on a pull-down screen. Several fetuses at different stages of development were shown after being aborted.

Approval of Minutes

To more accurately reflect the proceedings of the hearing on the informed consent lawsuit, **MS. LOOBY MOVED, SECONDED BY MS. HOLCOMB, THAT THE MINUTES OF THE FIRST MEETING (AUGUST 1, 2005) BE AMENDED AS FOLLOWS:**

ON PAGE 4, UNDER THE SUBHEADING, 2005 LITIGATION (FOR DEFENDANTS), THE SECOND PARAGRAPH STATING A COMMENT MADE BY MR. JOHN GUHIN, ATTORNEY GENERAL'S OFFICE, BE REMOVED.

To address concerns expressed by Senator Greenfield, the task force directed staff to get input from Mr. Guhin before voting on the motion.

Committee Interaction in Response to the Presentations

Stating that the task force also should hear input from South Dakotans regarding abortion, **SENATOR GREENFIELD MOVED, SECONDED BY SENATOR DUENWALD, THAT THE TASK FORCE SELECT REPRESENTATIVES HUNT AND MILES AND SENATOR ADELSTEIN TO SERVE AS A SUBCOMMITTEE TO DETERMINE EXPERTS FROM SOUTH DAKOTA WHO SHOULD BE INVITED TO TESTIFY ON BOTH SIDES OF THE ABORTION ISSUE ON SUBJECT AREAS III, IV, AND V.**

Committee discussion ensued. Dr. Bell questioned what criteria would be considered for the South Dakota expert witnesses. Senator Greenfield said that he believes that it is important to hear from South Dakotans on abortion. Ms. Looby suggested that the task force simply invite public testimony on both sides of the abortion issue for an allotted time on each side. Senator Greenfield said that he agreed with Ms. Looby's suggestion but stated that public testimony should be heard at another time after the meeting devoted to expert testimony from South Dakotans. Ms. Holcomb expressed concern about time constraints placed on the task force by which it must submit a report to the Executive Board of the Legislative Research Council. She questioned whether the task force has time to hold endless meetings before that time. Representative Kraus said that the task force would be remiss if it allowed a deadline to hinder its review of the issues surrounding abortion. She suggested that the task force hear from South Dakota authorities who deal with this issue and save public testimony for another date. Dr. Unruh said that he wants to hear not only from experts but also from those who have been affected negatively by an abortion. Dr. Bell said that experts are different from public testimony on personal experiences and stories. Senator Duenwald supported leaving the decision up to the subcommittee. Ms. Looby questioned what the task force would gain from hearing from South Dakota witnesses that it has not already heard from the national experts. Senator Greenfield said that he wants to hear from the friends and neighbors who are impacted in South Dakota. Dr. Bell asked how the task force would differentiate between South Dakota experts and general public testimony. Representative Hunt said that task force

members asked a number of today's presenters if they had statistics regarding how abortion affects South Dakotans to which the presenters responded that they did not have those specific statistics. Therefore, Representative Hunt requested that the task force invite the Secretary of the South Dakota Department of Health to provide statistical information regarding abortion in South Dakota. On behalf of Representative Hunt, staff distributed copies of the Annual Statistical Report of the South Dakota Department of Health (Document #11). Representative Hunt said that information also could be solicited from counseling entities in South Dakota on each side of the abortion issues. He also agreed that the task force needs to provide some time for general public testimony. Chair Allison suggested that the task force set aside one day to hear from South Dakota experts and the next day for public testimony. Since the motion pertains to Issues III, IV, and V, Chair Allison said that the task force should be able to develop an agenda with that format because three issues instead of five issues would be discussed. Dr. Unruh said that he would like to see how South Dakotans address the issue of informed consent. Representative Hunt suggested that the task force meet one day to hear from expert South Dakota witnesses; that evening hear general public testimony; and the next day, hear from remaining experts and public testimony. Regarding the composition of the subcommittee, Ms. Holcomb stated that the other subcommittees have had the chair as a member and stated her opinion that the task force should follow that precedent. Representative Hunt said that there are other interim committees that appoint subcommittees where the chair is not a member. Senator Adelstein expressed discomfort serving on the subcommittee without the chair being involved. He said that his position is at a disadvantage with the current proposed membership of the subcommittee. Representative Kraus disagreed with Senator Adelstein and said that his participation is important to the subcommittee.

SENATOR ADELSTEIN MADE A SUBSTITUTE MOTION, SECONDED BY MS. LOOBY, THAT CHAIR ALLISON REPLACE REPRESENTATIVE MILES AS A MEMBER OF THE SUBCOMMITTEE.

Senator Greenfield urged that the task force resist the substitute motion. He related the proposed membership of the subcommittee to the majority/minority representation on a conference committee.

Senator Adelstein objected to that comment and stated that the task force is a fact-finding entity and is not analogous at all to a conference committee.

Chair Allison commented that all members of the task force would do a good job as a member of the subcommittee. Responding to Senator Adelstein, Chair Allison said that she has a strong opinion on the abortion issue; however, the assignment of the task force is to collect data and information so she has remained a neutral participant as chair of the task force. Senator Adelstein said that Representative Miles would be a very qualified member of the task force but that he is more comfortable with the chair serving as a member.

Senator Adelstein's substitute motion failed on a voice vote.

DR. UNRUH CALLED THE QUESTION, SECONDED BY SENATOR GREENFIELD. The call of the question was supported on a voice vote.

SENATOR GREENFIELD'S MOTION, THAT THE TASK FORCE SELECT REPRESENTATIVES HUNT AND MILES AND SENATOR ADELSTEIN TO SERVE AS A SUBCOMMITTEE TO DETERMINE EXPERTS FROM SOUTH DAKOTA WHO SHOULD BE INVITED TO TESTIFY ON BOTH SIDES OF THE ABORTION ISSUE ON SUBJECT AREAS III, IV, AND V PREVAILED ON A ROLL CALL VOTE WITH 11 VOTING AYE, 4 VOTING NAY, AND 2 EXCUSED. Those voting AYE: Allison, Bartling, Benson, Duenwald, Greenfield, Hunt, Kraus, Miles, Stransky, Unruh, and Wachs. Those voting NAY: Adelstein, Bell, Holcomb, and Looby. Those EXCUSED: Day and Two Bulls.

SENATOR GREENFIELD MOVED, SECONDED BY MR. BENSON, THAT CHAIR HUNT SERVE AS THE CHAIR OF THE SUBCOMMITTEE.

Chair Allison said that there was not a chair of the subcommittee that met several times prior to today's meeting. She said that the members worked with staff to develop today's agenda.

Senator Greenfield withdrew his motion.

MS. LOOBY MOVED, SECONDED BY DR. BELL, THAT THE PROCESS FOR THE NEXT MEETING BE THE SAME AS FOR THIS MEETING TO DETERMINE WHO SHOULD BE INVITED TO TESTIFY AS AN EXPERT WITNESS AND THAT THE TIME BE DIVIDED EQUALLY BETWEEN TESTIMONY OF EACH POSITION. The motion prevailed on a voice vote.

Dr. Unruh expressed his opinion that the task force should include people who have had an abortion among those who provide expert testimony because they are amply qualified to testify in such regard.

Concerning a question about how testimony by the Secretary of the Department of Health would be considered, Senator Bartling said that that testimony should be considered outside the positions of each side of the abortion issue. She also expressed support for Ms. Looby's motion.

Representative Hunt agreed with Ms. Looby and Senator Bartling that testimonial time should be divided equally among the parties and that the testimony from the Department of Health should not come out of either side's time allotment.

Ms. Looby asked for a clarification on what constitutes an expert witness and what constitutes a person with an anecdotal story.

Senator Greenfield said that he trusts the subcommittee to establish the agenda for the next meeting and that the members will allot equal time to each side of the issue to the best of their ability.

Dr. Unruh said that he defines an expert as someone who has experienced something and believes that it is wrong to deny those individuals who have experienced an abortion an opportunity to testify on what he termed a critical part of the abortion issue.

Dr. Bell said that the people with personal stories should be separated from expert testimony because they are two separate types of testimony. She expressed support for hearing expert testimony on the first day of the meeting and that she was not sure about the public testimony portion.

Representative Kraus said that the task force should let the subcommittee complete its work before setting any parameters or constraints on testimony for the next meeting. The task force agreed that staff will e-mail submitted documents, reports, and written testimony to task force members.

Mr. Benson requested staff to provide a check-list of the documents that are distributed.

The members briefly discussed the format of the task force's final report, but no final decision was made as to format.

Approval of Minutes (Continued)

Regarding the pending motion to change the minutes, Ms. Storm reported that Mr. Guhin was unavailable for comment, but an associate suggested the following:

ON PAGE 4, UNDER THE SUBHEADING, 2005 LITIGATION (FOR DEFENDANTS), DELETE THE SECOND PARAGRAPH, AND INSERT THE FOLLOWING:

"REGARDING THE INFORMED CONSENT LAWSUIT, MR. GUHIN SAID THAT THE STATE HAS APPEALED THE PRELIMINARY INJUNCTION AND THAT HEARING ON THE PERMANENT INJUNCTION WILL BE HEARD IN OCTOBER IN SIOUX FALLS."

SENATOR GREENFIELD MOVED, SECONDED BY MS. LOOBY, THAT THE TASK FORCE ACCEPT THE ABOVE CHANGE. The motion prevailed on a voice vote.

SENATOR GREENFIELD MOVED, SECONDED BY DR. UNRUH, THAT THE MINUTES OF THE FIRST MEETING (AUGUST 1, 2005) BE APPROVED AS CHANGED. The motion prevailed on a voice vote.

Next Meeting Date and Adjournment

The Task Force set October 20 and 21, 2005, as its next meeting date.

There being no further business, Dr. Allison adjourned the meeting at 3:50 p.m.



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